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SUBJECT: INL DAS VERVILLE AND BREAKING THE DEADLOCK ON A NEW
ANTICORRUPTION REVIEW MECHANISM

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SUMMARY

¶1. In a whirlwind Vienna tour, INL DAS Elizabeth Verville hosted several meetings with key delegations in an effort to break the deadlock on creating a new anti-corruption review mechanism (reftel) for the UN Convention Against Corruption (UNCAC). In meetings with Ambassadors from the key obstructionist countries - China, Russia, Pakistan and Egypt- DAS Verville stressed the urgency of adopting terms of reference for the new mechanism during the November 9-13 3rd meeting of the UNCAC Conference of the States Parties (COSP) in Doha, Qatar. After exploring why these countries refuse to join the vast majority of States Parties which desire a strong and transparent mechanism that would include country visits, publication of reports, involvement of civil society and the use of all available information during the course of reviews, DAS Verville held a meeting with key "like-minded" governments - Sweden, France, Austria, Peru, Mexico, Argentina, and Canada - to coordinate a strategy for moving forward in unison and trying to bring the few reluctant countries into the fold as the negotiations enter their final stages. END SUMMARY

BREAKING THE DEADLOCK

¶2. On September 28-29, while in Vienna to chair formal meetings related to the UN Convention Against Transnational Organized Crime (septel) INL DAS Elizabeth Verville organized a series of meetings to attempt to break the deadlock in current negotiations to create a new mechanism to review implementation of UNCAC. The meetings helped solidify a U.S.-created bloc of "like-minded" countries that are trying to identify common negotiating positions. The meetings also sent a clear message to four key reluctant countries - Egypt, Pakistan, Russia and China - that failure is not an option when the negotiations culminate at the November 9-13 3rd UNCAC COSP in Doha.

PRODDING RELUCTANT COUNTRIES

¶3. DAS Verville first met with Russian Ambassador Alexander Zmeyerovskiy and highlighted the recent G-20 statement calling for an "inclusive, transparent and effective" UNCAC review mechanism. She emphasized the importance of coming to agreement in Doha to the credibility of the UNCAC and our international anticorruption efforts. The Russian Ambassador remarked that Russia shared the U.S. goal of finalizing terms of reference in Doha for a new peer review mechanism, but was concerned about the role of NGO's in the work of the mechanism. Russia was particularly concerned with the possibility that some countries might appoint representatives of NGO's to represent them on the expert team to review other

countries. To preclude having NGO representatives review Russia, Moscow was requesting that UNODC maintain a list of experts for each country that would participate in reviews. Ambassador Zmeyerovskiy also shared Russian concerns about country visits, which, like NGO participation, he felt were not commonly found in other treaty review mechanisms. DAS Verville stressed that States Parties had long ago committed to developing a constructive mechanism that will be useful and not seek to embarrass countries. Zmeyerovskiy and DAS Verville agreed to meet at the working level to try to resolve differences. (COMMENT: The ability of countries to appoint NGOs to the review teams is particularly important to EU countries. END COMMENT)

¶4. In her meeting with Egyptian Ambassador Ehab Fawzy and Counsellor Ayman Elgammal, DAS Verville explored Egypt's review mechanism concerns. Elgammal emphasized that his delegation sought to limit the participation of NGO's in what they consider an intergovernmental peer review mechanism. While Egypt also wants to limit the type of information that would be considered during any review (only information provided by the country under review), Elgammal noted that one potential compromise would be to omit in the terms of reference any discussion on sources of information that could be used during the course of reviews. He also reiterated Egypt's insistence that the core activities of the mechanism be funded via the UN Regular Budget, with possible exceptions for technical assistance and country visit activity. DAS Verville noted that while their meeting was not a negotiating session, she appreciated the frank outline of Egypt's position and hoped the dialogue could continue in advance of Doha. She further highlighted the importance of establishing an inclusive, transparent and effective review mechanism, which included all sources of information, rather than limiting the process to information provided by governments. On the issue of funding, DAS Verville

stressed a practical approach, noting that an increase in the UN Regular Budget would not be possible in the short term, given that UNODC's Regular Budget request for the biennium 2010-2011 had already been submitted to New York. She also noted that many States Parties would come forward with voluntary contributions if the end mechanism adopted proved to be inclusive, transparent, and effective.

¶5. DAS Verville met on September 29 with Chinese Ambassador Hu Xiaodi, Counsellor Chen Peijie and two organized crime experts visiting from Beijing, and once again called their attention to the pledge of the G-20 to develop an inclusive, transparent and effective mechanism. Given the well established and accepted role of civil society in the UNCAC and our anticorruption efforts, DAS Verville stressed to the Chinese Ambassador, it would make a "mockery" of the UNCAC and our review efforts if we did not find a useful way to integrate civil society into our review work. Ambassador Xiaodi admitted that he was relatively new in Vienna, but knew that countries had been negotiating for some time on the new review mechanism. He claimed that China is also committed to developing a useful mechanism, but wanted a mechanism where governments could feel comfortable in discussing their implementation of UNCAC. DAS Verville pointed to the UNCAC Pilot Review Program, involving 29 countries, which contained various characteristics that China opposed, such as country visits and publication of final reports, as an example that States Parties had nothing to fear from a transparent review process. Counsellor Chen replied that the pilot program was voluntary, and countries needed to be more careful about how to design a mandatory review mechanism that would involve all States Parties. DAS Verville urged China to join the large number of countries that want a transparent and useful mechanism adopted at Doha.

¶6. In her meeting with Pakistan Ambassador Khurshid Anwar and Third Secretary Usman Jadoon, DAS Verville stressed the need for a transparent mechanism, which is a key concept behind the fight against corruption. Ambassador Khurshid wondered if state parties had time to overcome our differences before Doha; DAS Verville opined that it was possible if we shared a "joint vision" for a transparent mechanism. Ambassador Khurshid said that transparency is a "good thing," but it was also critical to bring "reluctant" countries into the fold. He noted his work with a Central Asian regional mechanism while posted in Tehran, and said that they had been able to design something useful that had, at the same time,

ensured all countries were comfortable with the organization. He further noted the suspicions of NGO's, which are not always objective, and felt that we should not give NGO's a disproportionate role in the review process. DAS Verville urged Pakistan to look for compromises on the disputed issues in order to maintain the credibility of any new review mechanism. She noted that just that morning she had read an article detailing Pakistan's corruption problems. Detrimental information that could affect Pakistan's standing is already out there, DAV Verville stressed. This review mechanism offers Pakistan a chance for some help.

RALLYING "LIKE-MINDED" COUNTRIES

¶17. On September 29, DAS Verville hosted a lunch with key "like-minded" countries: Sweden, Argentina, Canada, France, Peru, Mexico, and Austria. All agreed that, given the complexities of the issues, it was crucial to enter Doha with some type of agreement among like-minded and reluctant countries. The like-minded group pledged to develop potential credible compromises on the six major disputed issues (composition of review teams, sources of information, country visits, publication of reports, role of the Implementation Review Group, and financing) and to also identify redlines on each issue. Many attendees thanked DAS Verville for sending a message to the local ambassadors of the "reluctant" countries, as well as for U.S. plans to reach out to these same governments in Washington and in capitals. All agreed that it would be important to approach reluctant countries at the highest levels in capitals, and to possibly coordinate our in-country demarches.

STRATEGIZING WITH UNODC CHIEF COSTA

¶18. On September 29, DAS Verville and Ambassador Glyn Davies met with UNODC Executive Director Costa to demonstrate U.S. commitment to developing an UNCAC review mechanism. In this regard, DAS Verville outlined U.S. outreach efforts with reluctant countries, including meetings with Vienna-based ambassadors, planned demarches via capitals and outreach in Washington. She also noted the work of the like-minded group to develop a possible compromise package. Costa welcomed these efforts and noted that the UN Secretary General was contemplating whether he might also write to all governments in

order to stress the importance of adopting a review mechanism in Doha. Costa also raised the specter of potentially calling for a vote - something which has yet to be done in the context of Vienna-based anti-crime work - and suggested this might be necessary in order to reach agreement on a review mechanism. DAS Verville emphasized her reluctance to use this option and to consider it only as a last resort, noting that the goal should be to create a mechanism that had buy-in from all States Parties.

¶19. On the margins of the meeting, DAS Verville urged Costa to fill the vacant D-2 position as Director for the Division of Treaty Affairs. If the position remains vacant for one year (until March 2010), New York has the option of withdrawing it. Costa said that the position was frozen. He noted that he "has his pulse" on whether New York would withdraw the position and indicated he would take action to prevent this from occurring.

COMMENTS

¶10. We are heartened by the close cooperation exhibited by a large group of like-minded countries, and the progress in developing joint compromises and strategies. DAS Verville apparently was the first senior diplomat to approach China, Russia, Egypt and Pakistan at the ambassadorial level in Vienna on the topic of the mechanism; she was able to send a strong message about the urgent need to reach agreement in Doha. However, we remain concerned that, with little time until Doha, reluctant countries continue to advocate for a review mechanism that lacks critical elements of transparency (no site visits, limits on information that can be used during reviews, and elimination of any role for civil society) and feel that the

like-minded countries are not addressing their concerns. Six informal negotiation sessions have been scheduled in Vienna prior to November, and we will continue to work closely with the like-minded countries to develop viable compromises that do not adversely affect the integrity or transparency of any new review mechanism. At the same time, we will reach out in capitals and in Washington to China, Russia, Egypt and Pakistan, and will coordinate with Sweden (EU chair) and other like-minded countries during the course of our outreach, as well as working with the interagency, to take advantage of other high-level opportunities to make the point that it is in all state parties' interest to have a strong and transparent review mechanism. END COMMENTS

DAVIES